



Jonathan P. Osha
Osha - Liang, LLP
1221 McKinney Street, Suite 2800
Houston, TX 77010

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In re Application of	:	
ABADIA	:	
Application No.: 10/554,487	:	DECISION ON PETITION
PCT No.: PCT/FR04/01020	:	
Int. Filing Date: 28 April 2004	:	UNDER 37 CFR 1.10(d)
Priority Date: 28 April 2003	:	
Atty. Docket No.: 17170/014001	:	
For: INTERPOSED ELECTRICAL CONNECTOR	:	
WHICH IS INTENDED TO CONNECT TWO	:	
STACKED ELECTRONIC CIRCUITS AND TO	:	
THE METHOD OF MOUNTING SAME	:	

This is a decision on applicant's "REQUEST FOR CORRECTED FILING RECEIPT" filed 09 November 2006 in the United States Patent and Trademark Office (USPTO). The request is being treated as a petition under 37 CFR 1.10. No petition fee is required.

BACKGROUND

On 28 April 2004, applicant filed international application PCT/FR04/01020 which claimed priority to an earlier Australian application filed 28 April 2003. A copy of the International Application was forwarded to the United States Patent and Trademark Office (USPTO) from the International Bureau (IB) on 11 November 2004. Pursuant to 37 CFR 1.495, the thirty-month period for paying the basic national fee in the United States expired at midnight on 28 October 2005.

On 26 October 2005, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by the requisite basic national fee as required by 35 U.S.C. 371(c)(1); an English translation of the international application as filed; an executed declaration of the inventor; an assignment document for recording and an Application Data Sheet.

On 18 July 2006, applicant was mailed a "Notification of Acceptance" (Form PCT/DO/EO/903) indicating a 371 date of 26 October 2006.

On 09 November 2006, applicant filed the present petition and request for corrected filing receipt indicating that the papers at issue, satisfying the 35 U.S.C. 371 requirements, were filed 24 October 2006. While, the petition states, "10/24/2006" it is clear from the petition and accompanying documentation that applicant seeks a 35 U.S.C. 371 date of 24 October 2005.

DISCUSSION

37 CFR 1.10(a) states:

(1) Any correspondence received by the U.S. Patent and Trademark Office (USPTO) that was delivered by the "Express Mail Post Office to Addressee" service of the United States Postal Service (USPS) will be considered filed with the USPTO on the date of deposit with the USPS.

(2) The date of deposit with USPS is shown by the "date in" on the "Express Mail" label or other official USPS notation. If the USPS deposit date cannot be determined, the correspondence will be accorded the USPTO receipt date as the filing date. See § 1.6(a).

A review of the Express Mail label for the subject mailing, EV707248153US shows a "date-in" date of "10-26-05." Thus, the USPTO did correctly accorded a 371 date of 26 October 2005 pursuant to 37 CFR 1.10(a). However, 37 CFR 1.10(d) provides relief in cases where applicant can show an error or discrepancy between the date of deposit and the date written in as the "date-in" date by the USPS.

37 CFR 1.10(d) states:

Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS was incorrectly entered or omitted by the USPS, may petition the Commissioner to accord the correspondence a filing date as of the date the correspondence is shown to have been deposited with the USPS, provided that:

(1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date based upon an incorrect entry by the USPS;

(2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail"; and

(3) The petition includes a showing which establishes, to the satisfaction of the Commissioner, that the requested filing date was the date the correspondence was deposited in "Express Mail Post Office to Addressee" service prior to the last schedule pickup for that day. Any showing pursuant to this paragraph must be corroborated by evidence from the USPS or that came into being after deposit and within one business day of the correspondence in the "Express Mail Post Office to Addressee" service of the USPS.

Applicant has satisfied all three items above. Specific to item 3, applicant has provided a copy of the customer copy of the Express Mail mailing label which shows a USPS barrel stamp dated "OCT 24 2005." In addition, a review of the USPS track and confirm database shows acceptance of the Express Mail parcel by the USPS on 24 October 2005 at 4:16pm.

For the reasons above, it is proper to grant applicant's petition under 37 CFR 1.10(d) at this time.

CONCLUSION

Applicant's petition under 37 CFR 1.10(d) is **GRANTED**.

The application has an international filing date of 28 April 2004 under 35 U.S.C. 363 and will be given a date of **24 October 2005** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

USPTO records will be updated to reflect the correct 371 date.

The "Notification of Acceptance of Application Under 35 U.S.C. 371 and 37 CFR 1.494 or 1.495" (Form PCT/DO/EO/903) mailed 18 July 2006 is hereby **VACATED**.

This application is being returned to the United States Designated/Elected Office (US/DO/EO) for further processing in accordance with this decision, namely the issuance of a "Notification of Acceptance of Application Under 35 U.S.C. 371 and 37 CFR 1.494 or 1.495" (Form PCT/DO/EO/903) and corrected filing receipt indicating the correct 371 date as **24 October 2005**.



Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: (571) 272-3294
Fax: (571) 273-0459